

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Reporting Requirements for U.S. Providers of	)	IB Docket No. 04-112
International Telecommunications Services	)	
	)	
Amendment of Part 43 of the Commission's	)	
Rules	)	

**COMMENTS OF MCI, INC.**

Scott A. Shefferman  
MCI, Inc.  
1133 19<sup>th</sup> Street, NW  
Washington, DC 20036  
(202) 736-6064

Its Attorney

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**COMMENTS OF MCI, INC.**

MCI, Inc. ("MCI") hereby submits these Comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding seeking comment on proposed changes to the international reporting requirements contained in Part 43 of the Commission's rules.<sup>1</sup>

**I. Introduction and Summary**

As a general matter, MCI urges the Commission throughout these comments to weigh the benefits obtained by adopting its proposals against the sometimes significant burdens in terms of manpower and financial resources required by U.S. carriers to gather and analyze the data required in the reports. As set forth herein, MCI applauds the Commission for many of its proposals to eliminate burdensome reporting requirements and to streamline the reporting processing. These Commission actions recognize the changes in the international telecommunications sector, and reduce burdens on providers of international services in the United States. Some of the Commission's proposals would in

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<sup>1</sup> *Reporting Requirements for U.S. Providers of International Telecommunications Services, Amendment of Part 43 of the Commission's Rules*, IB Docket No. 04-112, Notice of Proposed Rulemaking, FCC 04-70 (rel. April 12, 2004).

fact complicate the reporting process for U.S. providers of international services, however, and should not be adopted.

**II. The Commission Should Adopt its Proposals to Streamline the Annual Traffic and Revenue Reports**

The Commission has proposed a number of modifications to the annual traffic and revenue reports that are currently required pursuant to section 43.61 of the Commission's rules. We address each one of these proposals in turn.

**A. *The Commission Should Eliminate the Current Requirement to Report Number of Messages***

In the NPRM, the Commission proposes to eliminate the requirement that U.S. carriers report the number of calls, or "number of messages", in the section 43.61 Traffic and Revenue Reports, stating that reporting number of minutes alone should provide the necessary information to achieve the purpose of the reports. *NPRM* at para. 28. We agree. The "number of messages" data provides a rough indicator of the volume of calls made on particular routes. The number of minutes data, however, serves the same purpose but more accurately. In sum, there is simply no useful purpose served by reporting number of messages and the Commission should eliminate this additional burden on reporting carriers.

**B. *The Commission Should Eliminate the Current Requirement to Separately Report Data for Off-Shore U.S. Points***

The Commission proposes to eliminate the requirement that carriers report traffic, revenue, and circuits between the continental United States and off-shore U.S. points, including but not limited to U.S. territories such as Guam, American Samoa, U.S. Virgin Islands, and Puerto Rico. *NPRM* at paras. 29-31, 59. MCI agrees with the Commission's proposal. Instead, U.S. carriers should be required to report section 43.61 and 43.82

information on an aggregated basis for all U.S. points, whether such points are continental or off-shore. This modification would eliminate the unnecessary additional burden created by having to break out data for several different U.S.-originating points.

***C. The Commission Should Adopt Alternative Thresholds for Miscellaneous Services that Represent Minimal Revenues for U.S. Carriers***

The Commission proposes to adopt a \$5 million revenue threshold for determining which “miscellaneous services” a carrier must report. *NPRM* at Paras. 38-42. Such miscellaneous services have typically included telegraph, telex, occasional use television, packet switching, and switched video services.<sup>2</sup> MCI agrees that the Commission should adopt thresholds to allow it to obtain information on services that may have an impact on the telecommunications market, but to relieve carriers from the burden of filing data on declining services that have a very minimal impact on the market. MCI is concerned, however, that the \$5 million threshold alone will not accomplish the Commission’s goal of eliminating filing for all insignificant services.

MCI therefore urges the Commission to add an alternative threshold that would relieve U.S. carriers from filing information on miscellaneous services that represent less than 0.10 percent (or one one-thousandth) of the filing carrier’s total revenues reported in its most recent annual report. Such an alternative threshold would give large operators an opportunity to avoid the burden of reporting information on services that are declining and that represent extremely small and insignificant portions of their revenue. A requirement to file for miscellaneous services that are insignificant enough to represent less than one-thousandth of the revenue of a filing carrier would unnecessarily burden that carrier without furthering the Commission’s goal of obtaining “information on miscellaneous

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<sup>2</sup> See 2002 *International Telecommunications Data*, p.3, figure 2, released March 2004.

services that may have a *significant* impact on the international telecommunications market” (emphasis added), and should therefore be eliminated.

Under this scenario, in order for a carrier to determine whether to report information regarding a particular service, it would first determine whether the total revenue for the service would be less than \$5 million. If so, it would not be required to file the information in its Section 43.61 Report. If the revenues for the service are above \$5 million but the filing carrier determines that such revenues comprise less than 0.10 percent of its total telecommunications revenues, then the filing carrier would still not be required to file information pertaining to that service.

MCI also fully supports the Commission’s proposal to eliminate section 43.53 of its rules requiring carriers to report information regarding international telegraph services. *See NPRM* at para. 67. We agree that because telegraph services, like other miscellaneous services, has declined significantly over the years it is no longer useful or necessary to obtain telegraph traffic and revenue information. In sum, the Commission’s proposal to eliminate reporting for very small services is an important deregulatory step that will ease the burden on filing carriers and allow the Commission to focus on more significant services.

***D. The Staff Recommendations to Report Separately Retail and Wholesale Information and Route-Specific and Non-Route Specific Revenues Would Be Unnecessarily Burdensome***

Attached to the NPRM at Appendix C is a recommendation by the International Bureau and Wireline Competition Bureau staffs (“Staff Recommendation”) containing detailed proposals, including proposed Schedules, for “simplifying the traffic and revenue

information” reported by filing carriers. The Commission seeks comment on the Staff Recommendations. *NPRM* at paras. 43-45.

Many of the Staff Recommendations will ease burdens on filing carriers, including the proposals to eliminate the billing codes, services codes, and reporting of number of calls and retained revenue. We support such changes. The staff also recommends, however, that carriers report separately: (1) “traffic they receive from U.S. end user customers” (i.e., retail traffic) and “traffic they receive from another U.S. carrier” (i.e., wholesale traffic); and (2) “route-specific revenues” versus “non-route specific revenues.” See *NPRM* Appendix C at paras. 16-17. Currently, filing carriers are not required to make these distinctions in their reports.

MCI is concerned that contrary to the Commission’s goal of “simplifying” the reporting requirements, these proposed new traffic and revenue categories would in fact impose additional burdens on filing carriers in preparing the traffic and revenue reports. The internal systems and processes that MCI has in place today for preparing the traffic and revenue reports do not support these proposed distinctions. MCI would incur significant new burdens in updating the systems to allow for such reporting, and would require more resources to prepare the reports as further breakouts of traffic and revenue would be required than what is required today. In sum, the burdens created by the proposed new reporting categories recommended by staff would outweigh any benefits, and the Commission should not adopt these specific proposals.

***E. The Commission Should Adopt a May 1st Filing Date for the Traffic and Revenue and Circuit-Status Reports***

The Commission proposes moving the annual filing date to May 1<sup>st</sup> of each year from July 31<sup>st</sup> for the section 43.61 reports and from March 31<sup>st</sup> for the section 43.82

reports. *NPRM* at paras. 46-49, 64. We support the Commission's proposal, particularly if the Commission decides to eliminate the quarterly traffic and revenue reports filed by large carriers, as discussed in the next section. We agree that the changes proposed by the Commission to streamline the information contained in the reports should make it somewhat less burdensome, and therefore less time-consuming, to prepare and review the information for filing by May 1<sup>st</sup>. Moreover, while the International Traffic Reports do serve as a useful reference for understanding the U.S. international telecommunications market, the reports would be more useful if they were more up-to-date. MCI therefore supports the Commission in its efforts to prepare and issue the reports earlier in coming years.

### **III. The Commission Should Eliminate Quarterly Traffic and Revenue Reports for Large Carriers**

Section 43.61(b) of the Commission's rules currently requires large international carriers to file quarterly traffic and revenue reports in addition to the generally required annual reports. The quarterly reporting requirement was originally adopted by the Commission to enable detection of competitive abuse using one-way bypass on International Simple Resale (ISR) authorized routes.<sup>3</sup> Commission seeks comment on whether the quarterly reporting requirement should be retained. *NPRM* at para. 52.

While it is clear that the potential for anti-competitive behavior by foreign carriers remains a very real threat to U.S. international carriers, MCI believes that burdens presented by the broad quarterly reporting requirement contained in section 43.61(a) do not justify maintaining the rule. We agree with the Commission that competition has

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<sup>3</sup> See *International Settlement Rates*, IB Docket No. 96-261, Report and Order, 12 FCC Rcd 19806, 19919-20 (1997).



increased on many international routes since the quarterly reporting requirement was adopted as a result of the WTO commitments and further liberalization in many markets. Settlement rates on the majority of routes are below the Commission's benchmark rates, so the potential for distortion of international traffic via one-way bypass has diminished, although not entirely disappeared. On the other hand, the burden of preparing and reviewing international traffic and revenue statistics on a quarterly basis is significant, especially given the decrease in staff and financial resources that many international carriers now face. On balance, therefore, we believe that the burden of preparing quarterly reports outweighs the benefits of those reports.<sup>4</sup>

We emphasize, however, that competitive distortion in the international market remains a real threat and should not go unaddressed. We urge the Commission to ensure that it is empowered to request traffic and revenue information from any authorized U.S.-international carrier on a case-by-case basis where there is a perceived competitive threat as a result of significant distortions in international traffic flows. The Commission should make such a request where a carrier, or the Commission itself, notices changes in traffic flows that raise the possibility of anti-competitive behavior on a particular international route.

Most international carriers are likely to have raw internal international traffic data that could be filed with the Commission in response to a specific request. MCI believes that such a case-by-case process would more effectively balance the benefits of the reporting requirement against the burdens than the current requirement to report on a

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<sup>4</sup> Should the Commission decide -- contrary to MCI's position -- to maintain quarterly filing requirements, it should consider moving the second quarter due date from April 30<sup>th</sup> to May 31<sup>st</sup> so that the new annual filing date (May 1<sup>st</sup>) does not conflict with the current second quarter filing date (April 30<sup>th</sup>).

quarterly basis. Such an approach would free up U.S. international carriers' staff to focus on other important work except in specific instances when a perceived threat to competition requires the Commission to seek international traffic data for a particular route.

**IV. The Commission Should Continue to Require International Circuit-Status Reports, but on a Consolidated Basis with Traffic and Revenue Reports**

The Commission tentatively concludes that the annual circuit-status reports currently required to be filed by international common carriers pursuant to section 43.82 of the Commission's rules continue to be useful and should be retained. *NPRM* at para. 58. The Commission proposes various modifications to the circuit-status reports, *NPRM* at paras. 59-62 and Appendix C (Section H), and also proposes that the circuit-status report be consolidated into the traffic and revenue report, making the circuit status information a schedule of the annual section 43.61 report rather than an entirely separate report. *NPRM* at paras. 62-66.

MCI agrees that the circuit status report is useful and should be retained. We also agree that the circuit-status report should be consolidated with the traffic and revenue reports. Specifically, the circuit-status report should be due on May 31<sup>st</sup>, and should be contained as a schedule in the section 43.61 report. Finally, we agree that the Commission should no longer treat circuits between U.S. points as international circuits.

MCI is concerned, however, that some of the proposed modifications would actually broaden the information reported or increase the burden on carriers required to file the circuit-status reports. For example, the Commission proposes that non-common carrier owners of capacity should be required to file circuit-status reports, something that they are not required to do today. *See NPRM* at para. 60. Presumably in light of this proposal the

Commission modified section 43.61(d) to replace current section 43.82. In the proposed rule, the Commission modified the current the phrase “facilities-based *common* carrier engaged in providing international telecommunications service” (emphasis added) to “facilities-based carrier engaged in providing international telecommunications service.” *NPRM* Appendix B, page 44. The proposed rule then requires such carriers to report “the status of its circuits used to provide international services...” Ibid.

We urge the Commission to ensure that these changes do not inadvertently require carriers to report circuits that are used to provide services that are not “telecommunications” and therefore not subject to regulation under Title II of the Communications Act. In other words, the Commission does not and should not require reporting of circuits that are used for information services, and such a requirement would be inappropriately broad. The Commission should add the word “telecommunications” to the last sentence of proposed section 43.61(d) so that it would read, “the status of its circuits used to provide international telecommunications services...” to clarify this point.

Moreover, the Commission proposes to retain the requirement that carriers report their circuit information on the basis of 64 Kbps equivalents. *NPRM* at para. 61. MCI urges the Commission to modify this requirement to allow filing carriers to report higher capacity circuits using higher capacity measurements, such as DS-3 (45 Mbps), STM-1, STM-4 and so forth, to better reflect the reality of the market. Most services other than IMTS use circuits at capacities of DS-3 or higher. Continuing to require reporting using 64 Kbps equivalents creates additional work in preparing the reports, and does not reflect the way circuits are used in today’s telecommunications market.

**V. The Commission Should Continue to Permit Filing Carriers to Request Confidentiality for Competitively Sensitive Information Contained in the Reports**

The Commission seeks comment on whether the circuit-status reports and certain information contained in the traffic and revenue reports should continue to be treated as confidential. *NPRM* at paras. 68-71. We believe that the Commission should continue to permit filing carriers to request confidential treatment for circuit-status information and for certain section 43.61 traffic and revenue information. Such information does continue to be competitively sensitive to filing carriers. Indeed, as international services become ever more competitive each year, the need to protect competitively sensitive information is even more pronounced now than in the past.

Therefore, MCI does not support publicly available of individual carrier information filed in the circuit-status reports. Access to such information by the competitors of filing carriers would provide a view into the capacity and facilities-management aspects of a filing carrier's business. Such information could give an unfair advantage to competitors, particularly to foreign carriers who are not themselves subject to the Commission's reporting requirements. In sum, we urge the Commission to continue to respect requests for confidentiality made by filing carriers under the new rules.

**VI. The Commission Should Permit Filing Carriers to File Electronically Using Commercially Available Computer Programs**


The Commission tentatively concludes that it should mandate electronic filing of traffic and revenue and circuit-status reports using commercially available spreadsheet computer programs. *NPRM* at paras. 76-78, and Appendix C. MCI strongly supports the Commission's proposals. In particular, we agree with the staff recommendation that commercially available spreadsheet programs should be used for submitting country-by-

country data, and internet-form-based online reporting could be used for submitting other simpler data. These two changes in the current procedure would significantly reduce burdens on filing carriers, and likely make it easier for Commission staff to prepare the annual report. MCI specifically requests that the Commission permit filing of country-by-country data using Excel, a widely used commercial spreadsheet program.

## **VII. Conclusion**

As set forth herein, MCI respectfully requests that the Commission adopt its proposed modifications to simplify and streamline the traffic and revenue and circuit-status reporting requirements. In particular, MCI requests that the Commission adopt an alternative threshold requiring reporting only of those miscellaneous services that represent more than 0.10 percent, or one one-thousandth, of the total revenues of a filing carrier, and that it eliminate the quarterly traffic and revenue reports for large carriers. MCI also urges the Commission not to adopt proposals that would increase the burdens on filing carriers, including Staff Recommendations to add reporting categories for retail and wholesale traffic and for route-specific versus non-route specific revenues.

Respectfully submitted,



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Scott A. Shefferman

MCI, Inc.  
1133 19<sup>th</sup> Street, NW  
Washington, DC 20036

Its Attorney

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